

HOUSE JOURNAL

SEVENTY-SEVENTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SEVENTY-THIRD DAY — MONDAY, MAY 14, 2001

The house met at 1:00 p.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 428).

Present — Mr. Speaker; Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Absent, Excused — Hilbert.

The invocation was offered by Dr. Daniel T. Hannon, pastor, Christ Church United Methodist, The Woodlands, as follows:

Into this moment and time we come, gracious God, ready to work for the citizens of this great state. Into this moment and time we come, gracious God, guided by a principle that all people are created equal. Into this moment and time we come, gracious God, filled with a purpose, that our principles and citizenship might so merge that we become the agents for making Texas a better place to live.

So take these your servants, fill them with your Holy Spirit, empower them with a passion to fulfill the commandment through the Prophet Micah, that we will seek justice, love, mercy, and walk humbly with our God. Into this moment and time we come, gracious God, ready to serve. So consecrate us, that people will see you in what we do. This I pray in your sacred and divine name. Amen.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for today because of illness:

Hilbert on motion of Haggerty.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 27).

CAPITOL PHYSICIAN

The speaker recognized Representative Puente who presented Dr. Joshua Freeman of San Antonio as the "Doctor for the Day."

The house welcomed Dr. Freeman and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

MESSAGES FROM THE SENATE

Messages from the senate were received at this time (see the addendum to the daily journal, Messages from the Senate, Message Nos. 1 and 2).

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of illness:

Delisi on motion of Woolley.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 52).

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

J. Moreno on motion of Martinez Fischer.

HR 1032 - ADOPTED

(by Keel)

Representative Keel moved to suspend all necessary rules to take up and consider at this time **HR 1032**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1032, Honoring the delegates from Greece and Turkey visiting the United States under the auspices of the American Council of Young Political Leaders.

HR 1032 was read and was adopted without objection.

INTRODUCTION OF GUESTS

The speaker recognized Representative Keel, who introduced delegates from Greece and Turkey visiting under the auspices of the American Council of Young Political Leaders.

HR 1026 - ADOPTED
(by Kolkhorst)

Representative Kolkhorst moved to suspend all necessary rules to take up and consider at this time **HR 1026**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1026, Recognizing the State Noodle Cookoff in Lee County on May 19, 2001.

HR 1026 was adopted without objection.

HR 1046 - ADOPTED
(by Puente)

Representative Puente moved to suspend all necessary rules to take up and consider at this time **HR 1046**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1046, Honoring George Archer Winters of San Antonio for his devotion to classical music and congratulating him on the 25th anniversary of the Winters Chamber Orchestra.

HR 1046 was read and was adopted without objection.

INTRODUCTION OF GUEST

The speaker recognized Representative Puente, who introduced George Archer Winters.

HCR 283 - ADOPTED
(by Homer)

Representative Homer moved to suspend all necessary rules to take up and consider at this time **HCR 283**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 283, Honoring Fred G. Wilkerson as he retires as superintendent of the Cooper ISD.

HCR 283 was adopted without objection.

HR 980 - ADOPTED
(by F. Brown)

Representative F. Brown moved to suspend all necessary rules to take up and consider at this time **HR 980**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 980, Honoring Alfred Hutmacher, Lieutenant Obit Volker Lossner, and Colonel Thomas C. Fosnacht for their roles in returning the class ring of First Lieutenant Turney W. Leonard, Texas A&M University for facilitating the return of the ring, and Douglas Leonard of Dallas and other members of First Lieutenant Leonard's family for their donation of the ring and First Lieutenant Leonard's Medal of Honor to Texas A&M University for permanent display.

HR 980 was read and was adopted without objection.

INTRODUCTION OF GUESTS

The speaker recognized Representative F. Brown, who introduced the family of First Lieutenant Turney W. Leonard.

HR 965 - ADOPTED

(by Truitt)

Representative Truitt moved to suspend all necessary rules to take up and consider at this time **HR 965**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 965, In memory of Deputy Leonard Burton Turner of Goliad County.

HR 965 was unanimously adopted by a rising vote.

HR 966 - ADOPTED

(by Truitt)

Representative Truitt moved to suspend all necessary rules to take up and consider at this time **HR 966**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 966, In memory of Senior Deputy Keith G. Ruiz of Austin.

HR 966 was unanimously adopted by a rising vote.

HR 1049 - ADOPTED

(by Truitt)

Representative Truitt moved to suspend all necessary rules to take up and consider at this time **HR 1049**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1049, Congratulating Rodney Curtis Smith of Grapevine on the occasion of his 70th birthday.

HR 1049 was adopted without objection.

On motion of Representative Hope, the names of all the members of the house were added to **HR 1049** as signers thereof.

HR 1057 - ADOPTED
(by Junell)

Representative Junell moved to suspend all necessary rules to take up and consider at this time **HR 1057**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1057, In memory of Michael John Crowley of Austin.

HR 1057 was read and was unanimously adopted by a rising vote.

On motion of Representative Gray, the names of all the members of the house were added to **HR 1057** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Junell, who introduced the family of Michael John Crowley.

BILLS AND JOINT RESOLUTIONS ON FIRST READING
AND REFERRAL TO COMMITTEES
RESOLUTIONS REFERRED TO COMMITTEES

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

PROVIDING FOR A LOCAL, CONSENT,
AND RESOLUTIONS CALENDAR

Representative Y. Davis moved to set a local, consent, and resolutions calendar for 10 a.m. Thursday, May 17.

The motion prevailed without objection.

(Goolsby in the chair)

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

CSSB 1074 ON SECOND READING
(Thompson, Hinojosa, Keel, P. King, Naishtat, et al. - House Sponsors)

CSSB 1074, A bill to be entitled An Act relating to the prevention of racial profiling by certain peace officers.

CSSB 1074 was read second time on May 10 and was postponed until this time.

Amendment No. 1

Representative Thompson offered the following amendment to **CSSB 1074**:

Amend **CSSB 1074** as follows:

(1) In SECTION 1 of the bill, in the introductory language of the SECTION (House committee report, page 1, line 6), strike "2.136" and substitute "2.138".

(2) In SECTION 1 of the bill, in added Article 2.135, Code of Criminal Procedure (House committee report, page 5, line 25), strike "under Article 2.134 if, during the calendar year preceding the date" and substitute the following:

"under Article 2.134 if:

(1) during the calendar year preceding the date"

(3) In SECTION 1 of the bill, in added Article 2.135(a)(1), Code of Criminal Procedure (House committee report, page 5, line 27), strike "(1)" and substitute "(A)".

(4) In SECTION 1 of the bill, in added Article 2.135(a)(2), Code of Criminal Procedure (House committee report, page 6, line 6), strike "(2)" and substitute "(B)".

(5) In SECTION 1 of the bill, in added Article 2.135(a)(2), Code of Criminal Procedure (House committee report, page 6, line 9), strike "equipment." and substitute the following:

"equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1) and the agency does not receive from the state funds or video and audio equipment that are sufficient, as determined by the department, for the agency to accomplish that purpose."

(6) Between SECTIONS 1 and 2 of the bill (House committee report, page 6, between lines 25 and 26), insert the following:

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment as described by Article 2.135(a)(1), including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

(1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;

(2) smaller jurisdictions; and

(3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment as described by Article 2.135(a)(1). The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall

certify to the Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has installed video and audio equipment as described by Article 2.135(a)(1) and is using the equipment as required by Article 2.135.

Art. 2.138. RULES. The Department of Public Safety may adopt rules to implement Articles 2.131-2.137.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representatives Thompson and Allen offered the following amendment to **CSSB 1074**:

Amend **CSSB 1074** on page 3, following line 12, by adding a new subsection (f) as follows:

(f) Disciplinary action imposed on a peace officer for a violation of the policy required by this article shall be based on just cause.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative P. King offered the following amendment to **CSSB 1074**:

Amend **CSSB 1074** as follows:

(1) On page 3, lines 14-15, strike added Article 2.133(a), Code of Criminal Procedure, and substitute the following:

(a) In this article:

(1) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(2) "Pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation where the individual is not under arrest.

(2) On page 5, between lines 20 and 21, insert the following:

(f) In this article, "pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation where the individual is not under arrest.

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Gallego offered the following amendment to **CSSB 1074**:

Amend **CSSB 1074**, in SECTION 1 of the bill, in added Article 2.133, Code of Criminal Procedure (house committee report, page 4, between lines 17 and 18), by inserting the following:

(c) A local law enforcement agency that receives a report under Subsection (b) indicating that a peace officer employed by the agency arrested a person as a result of a stop or search for a violation or offense punishable

by fine only shall report the arrest to the governing body of the county or municipality served by the agency not later than the 24th hour after the time that the arrest occurred. If a law enforcement agency does not report an arrest as required by this subsection, the county or municipality served by the agency shall pay the costs incurred by the person arrested that are reasonable and directly related to the arrest, including costs related to bail and the recovery of a motor vehicle involved in the arrest, but not including costs or fines imposed on conviction.

Amendment No. 4 was adopted without objection. (The vote was reconsidered later today and the amendment was withdrawn.)

Amendment No. 5

Representative P. King offered the following amendment to **CSSB 1074**:

Amend **CSSB 1074** in SECTION 1 of the bill (house committee report, page 3, between lines 12 and 13), by inserting the following:

(f) On the commencement of an investigation by a law enforcement agency of a complaint described by Subsection (b)(3) of this article in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer.

Amendment No. 5 was adopted without objection.

SB 1074 — STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE WOOLLEY: Representative Thompson, did you understand my concern that I don't want the police departments having to design the racial profiling per se? Are you quite comfortable with this definition on page seven? Is that the minimum standard, the maximum standard?

REPRESENTATIVE THOMPSON: That is the general standard and they are able to take that standard and promulgate their policies within their department.

WOOLLEY: So you anticipate that local laws will exceed that or come in below it or match it?

THOMPSON: I think they will match it, but they certainly will have the opportunity to exceed it, if they believe that they need to.

WOOLLEY: My concern for this bill was the definition of racial profiling and that the people that we were trying to control their actions, that we are allowing them to write the rules. The second concern is that we are requiring them to report and your comfort level with their reporting. What happens to them if they don't report?

THOMPSON: We're hoping that the camera—that's a part of the policies of their local law enforcement. That would be the sanctions that they would deal with in their program at the local level.

WOOLLEY: Would it be up to the city council or—who would be sanctioning?

THOMPSON: It would be the local unit of government.

WOOLLEY: So, if it were a county, if it were a sheriff's department, then it would be up to the county commissioner's court; if it were a city, it would be up to the city council?

THOMPSON: That's correct.

WOOLLEY: Senfronia, I just want to make sure I have this clear in my mind because it was of great concern to some of my police officers and since 80 percent of the police forces in the state have 10 or fewer officers. It is my understanding that your amendment, that you put on, it says that everyone, they will have funding through the state, for the audio-visual cameras?

THOMPSON: The vehicles that are used for traffic.

WOOLLEY: So, we're saying that there will be funds to put the videos in the police cars?

THOMPSON: For those that are used for traffic.

WOOLLEY: For those that are used for traffic.

THOMPSON: Yes.

WOOLLEY: I'm sorry, could you make that distinction?

THOMPSON: If they're just using the car to go to an accident scene, they don't need a video. If they're doing traffic stops, writing tickets to speeders, they do need it.

WOOLLEY: What if a police officer stops a car to tell them they have a tail light out?

THOMPSON: That's traffic.

WOOLLEY: Okay. That's considered part of traffic. I just have to make these clear distinctions in my mind. Now, if some of the cars don't have the videos, then they will still be expected to do this reporting, is that correct?

THOMPSON: If they are doing traffic. If they are not doing traffic, they do not.

WOOLLEY: All right.

THOMPSON: Those persons who are working traffic.

WOOLLEY: The concerns that I had as the bill was written, and I'm not sure how your amendment fits in and that's the difficulty I'm having, is that even in some of the sections with the video cameras, there were exemptions, exemptions given on the reporting, on the collecting and reporting. There were some sections that were left out of that, some sections that were left out of the exemptions, and that's where I'm unclear. So, I'd like to clarify the intent, if you don't mind. If they do have video cameras, then they do not have to do the compiling and the reporting?

THOMPSON: That's right.

WOOLLEY: And, to the extent possible, the state is going to cover the cost of the cameras. Is that correct?

THOMPSON: As set up by the rules promulgated by the Texas Department of Public Safety.

WOOLLEY: So, I'm to understand, that, did I hear, did you tell me, that if they have applied for funds from the DPS, then they are exempt from the compiling and the reporting of the information?

THOMPSON: That's correct.

WOOLLEY: Mr. Speaker, may I have the conversation between Chairman Thompson and I reduced to writing and put in the journal, please?

REMARKS ORDERED PRINTED

Representative Woolley moved to print remarks by Representative Thompson and Representative Woolley.

The motion prevailed without objection.

Amendment No. 4 - Vote Reconsidered

Representative P. King moved to reconsider the vote by which Amendment No. 4 was adopted.

The motion to reconsider prevailed.

Amendment No. 4 was withdrawn.

CSSB 1074, as amended, was passed to third reading. (Berman, Hupp, E. Jones, Talton, and Woolley recorded voting no)

SB 450 ON SECOND READING (Gallego - House Sponsor)

SB 450, A bill to be entitled An Act relating to the computation of average daily attendance in certain school districts that experience a decline in attendance.

SB 450 was read second time on May 10 and was postponed until this time.

Amendment No. 1

Representative Gallego offered the following amendment to **SB 450**:

Amend **SB 450** (house committee report) as follows:

(1) In the introductory language to SECTION 1 of the bill (page 1, lines 5 and 6), strike "Subsection (b), Section 42.005, Education Code, is amended" and substitute "Section 42.005, Education Code, is amended by amending Subsection (b) and adding Subsections (e) and (f)".

(2) In SECTION 1 of the bill, strike amended Subdivision (2), Subsection (b), Section 42.005, Education Code (page 1, lines 13-19) and substitute the following:

(2) subject to Subsection (e), an average daily attendance not to

exceed 98 percent of the actual average daily attendance of the preceding school year, if the decline is not the result of the closing or reduction in personnel of a military base [shall be funded on the basis of the actual average daily attendance of the preceding school year].

(3) Between SECTIONS 1 and 2 of the bill (page 1, between lines 19 and 20), insert the following:

(e) For each school year, the commissioner shall adjust the average daily attendance of school districts that are entitled to funding on the basis of an adjusted average daily attendance under Subsection (b)(2) so that:

(1) all districts are funded on the basis of the same percentage of the preceding year's actual average daily attendance; and

(2) the total cost to the state does not exceed the amount specifically appropriated for that year for purposes of Subsection (b)(2).

(f) An open-enrollment charter school is not entitled to funding based on an adjustment under Subsection (b)(2).

Amendment No. 1 was adopted without objection.

SB 450, as amended, was passed to third reading.

CSSB 293 ON SECOND READING **(West - House Sponsor)**

CSSB 293, A bill to be entitled An Act relating to electronically readable information on a driver's license, commercial driver's license, or personal identification certificate; providing penalties.

CSSB 293 was read second time on May 10 and was postponed until this time.

Amendment No. 1

Representative West offered the following amendment to **CSSB 293**:

Amend **CSSB 293** as follows:

(1) In SECTION 1 of the bill, added Section 521.126(e), Transportation Code, in Subdivision (2)(C) (Committee Printing, page 2, line 15), strike "or".

(2) In SECTION 1 of the bill, added Section 521.126(e), Transportation Code, in Subdivision (3) (Committee Printing, page 2, line 17), between "capacity" and the period, insert the following:
; or

(4) a physician who holds a license to practice medicine in this state issued under Subtitle B, Title 3, Occupations Code, who, in accordance with Chapter 159 of that code, accesses or uses the information to create or update medical records of a patient of the physician

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative West offered the following amendment to **CSSB 293**:

Amend **CSSB 293**, in SECTION 1 of the bill, amended Section 521.126 (Committee Printing, page 3, between lines 8 and 9), by inserting a new Subsection (g) as follows and relettering subsequent subsections accordingly:

(g) It is an exception to the application of Subsection (b) that the person accessing, using, compiling or maintaining the information:

(1) is a driving safety course provider who holds a license issued by the Texas Education Agency; and

(2) uses the information only in connection with a system that ensures the security of participation in a driving safety course approved under the Texas Driver and Safety Education Act (Article 4413(29c), Vernon's Texas Civil Statutes).

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Miller offered the following amendment to **CSSB 293**:

Amend **CSSB 293** (house committee printing) as follows:

(1) In Section 521.126, Transportation Code, as amended by SECTION 1 of the bill, strike added Subsection (e)(2) (page 2, lines 5-15), substitute "or", and renumber the subsequent subdivision accordingly.

(2) In Section 521.126, Transportation Code, as amended by SECTION 1 of the bill, strike added Subsection (g) (page 3, lines 9-18) and substitute the following:

(g) The Texas Alcoholic Beverage Commission by rule shall establish a program to train commission employees to search databases compiled or maintained in violation of Subsection (b)(2).

(3) In Section 521.126, Transportation Code, as amended by SECTION 1 of the bill, strike added Subsection (h)(3) (page 4, lines 6-14).

Representative West moved to table Amendment No. 3.

The motion to table was lost.

Amendment No. 3 failed of adoption.

A record vote was requested.

CSSB 293, as amended, failed to pass to third reading by (Record 429): 10 Yeas, 126 Nays, 3 Present, not voting.

Yeas — Chavez; Farrar; Glaze; Grusendorf; Lewis, G.; Lewis, R.; Noriega; Pitts; Uher; West.

Nays — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Garcia; Geren; Giddings; Goodman; Gray; Green; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Morrison; Mowery; Naishtat; Najera; Nixon; Oliveira; Olivo; Pickett; Puente; Ramsay; Raymond;

Reyna, A.; Reyna, E.; Sadler; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Goolsby(C); Gutierrez.

Absent, Excused — Delisi; Hilbert; Moreno, J.

Absent — Flores; Gallego; George; Hardcastle; Junell; Moreno, P.; Rangel; Ritter

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 3).

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

Nixon on motion of Denny.

SB 272 ON SECOND READING (Thompson - House Sponsor)

SB 272, A bill to be entitled An Act relating to interest charges and other costs of certain loans.

SB 272 was read second time on May 10 and was postponed until this time.

Amendment No. 1

Representative S. Turner offered the following amendment to **SB 272**:

Amend **SB 282** as follows:

(1) On page 3, line 2, strike "\$1,000" and replace it with "\$500".

(2) On page 3, line 6, strike "\$2,500" and replace it with "\$1050".

(3) On page 3, line 7, insert the following:

(3) 18 percent a year on that part of the cash advance that is more than the amount computed for Subdivision (2) but less than or equal to an amount computed under Subchapter C, Chapter 341, using the reference base amount of \$2,500.

Representative Thompson moved to table Amendment No. 1.

The motion to table was lost.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Grusendorf offered the following amendment to **SB 272**:

Amend **SB 272** as follows:

Delete Section 8 and add the following:

SECTION 8. Section 302.001, Finance Code, is amended by adding Subsection (d) to read as follows:

(d) In addition to interest authorized by Subsection (b), a loan providing for a rate of interest that is 10 percent a year or less may provide for a delinquency charge on the amount of any payment in default for a period of not less than 10 days in an amount not to exceed the greater of five percent of the amount of the payment or \$7.50. The charging of the delinquency charge does not make the loan subject to Chapter 342 or any other provision of Subtitle B.

SECTION 9. Section 342.004, Finance Code, is amended by adding Subsection (c) to read as follows:

(c) A loan described by Section 302.001(d) may provide for a delinquency charge as provided by that section without being subject to this chapter or any other provision of this subtitle.

SECTION 10. Section 342.005, Finance Code, is amended to read as follows:

Sec. 342.005. APPLICABILITY OF CHAPTER. Except as provided by Sections 302.001(d) and 342.004(c), a [A] loan is subject to this chapter if the loan:

- (1) provides for interest in excess of 10 percent a year;
- (2) is extended primarily for personal, family, or household use;
- (3) is made by a person engaged in the business of making, arranging, or negotiating those types of loans; and
- (4) either:

(A) is not secured by a lien on real property; or

(B) is described by Section 342.001(3), 342.301, or 342.456 and is predominantly payable in monthly installments.

SECTION 11. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Pitts offered the following amendment to **SB 272**:

Amend **SB 272** by inserting an appropriately numbered section and by renumbering the remaining sections appropriately:

SECTION _____. Chapter 339, Finance Code, is amended to clarify and confirm existing law by adding Section 339.005 to read as follows:

Sec. 339.005. **APPLICABILITY OF CERTAIN FEDERAL LAW.** This title does not override or restrict the applicability of 12 U.S.C. Section 1735f-7a.

Amendment No. 3 was adopted without objection.

SB 272, as amended, failed to pass to third reading.

SB 414 ON SECOND READING (Eiland and Seaman - House Sponsors)

SB 414, A bill to be entitled An Act relating to the regulation of certain insurance agents and to the consolidation of insurance agent licenses; providing penalties.

SB 414 was read second time on May 9 and was postponed until this time.

Amendment No. 1

Representative Eiland offered the following amendment to **SB 414**:

Amend **SB 414** (house committee printing) as follows:

(1) In SECTION 1.02 of the bill, in the sixth sentence of Section 3(b), Article 21.01-1, Insurance Code (page 9, line 26), strike "four hours" and substitute "two hours".

(2) In SECTION 1.11 of the bill, at the end of Section 2, Article 21.07, Insurance Code (page 45, between lines 11 and 12), insert:

(v) An entity chartered by the federal Farm Credit Administration under the farm credit system established under 12 U.S.C. Section 2001 et seq., as amended, may be licensed by the department to solicit insurance in this state, as provided by 12 U.S.C. Section 2218, as amended, and in the manner provided for the licensing of a corporation under this section.

(3) In SECTION 3.01 of the bill, in Section 6(b), Article 21.14, Insurance Code (page 67, lines 23-24), strike "a production credit association or bank for a cooperative" and substitute "an entity chartered by the federal Farm Credit Administration".

(4) After SECTION 7.03 of the bill (page 131, between lines 9 and 10) insert the following section, appropriately numbered:

SECTION 7.__. Article 8.24(h), Insurance Code, is amended to read as follows:

(h) The carrier may ~~[It shall]~~ underwrite business in Texas only through ~~[its resident Texas]~~ agents ~~[thereunto duly authorized by it in writing and duly]~~ licensed by the ~~[such]~~ department under ~~[the provisions of]~~ Article 21.09 or 21.14 of this code~~[-as the same now exists or as it may be amended hereafter, and the license issued to such Texas agents shall specially authorize them to write for such foreign carriers complying herewith the risks authorized hereby].~~

(5) In SECTION 8.01(10)(B) of the bill (page 139, line 18), strike "Subsection (h),".

(6) Renumber sections of the bill appropriately.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Eiland offered the following amendment to **SB 414**:

Amend **SB 414** (house committee printing) in SECTION 4.01 of the bill, in amended Section 1(a)(2)(A), Article 21.11, Insurance Code (page 113, line 12), after the semicolon, by inserting "or".

Amendment No. 2 was adopted without objection.

SB 414 — STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE WILLIAMS: Craig, we spoke earlier. I like your bill, there was just something I was concerned about for legislative intent. On page 10, lines one through four, that deal with the required continuing

education classroom hours. The language says that the hours must be completed in a classroom setting or a classroom equivalent. It's my understanding that this is not intended to limit if you're at a conference, attending one of these meetings at a conference that might be sponsored by a company or by an association, it's not intended to limit self study or internet courses, is that correct?

REPRESENTATIVE EILAND: That is correct. TDI, which I have confirmed since you and I talked, is going to be implementing legislation with rules and regulations and one of the things they will set forth is how you meet classroom equivalency which will certainly include interactive internet presentations.

WILLIAMS: Thank you for helping me clarify this.

REMARKS ORDERED PRINTED

Representative Williams moved to print remarks by Representative Williams and Representative Eiland.

The motion prevailed without objection.

SB 414, as amended, was passed to third reading.

CSSB 1444 ON SECOND READING (Walker - House Sponsor)

CSSB 1444, A bill to be entitled An Act relating to the general powers and authority of water districts; providing a penalty.

CSSB 1444 was read second time on May 10 and was postponed until this time.

Amendment No. 1

Representative Kuempel offered the following amendment to **CSSB 1444**:

Amend **CSSB 1444** by adding an appropriately numbered new SECTION to the bill to read as follows, and appropriately renumbering subsequent SECTIONS of the bill:

SECTION __. Section 49.278(a), Water Code, is amended to read as follows:

(a) This subchapter does not apply to:

(1) equipment, materials, or machinery purchased by the district at an auction that is open to the public;

(2) contracts for personal or professional services or for a utility service operator;

(3) contracts made by a district engaged in the distribution and sale of electric energy to the public; ~~or~~

(4) contracts for services or property for which there is only one source or for which it is otherwise impracticable to obtain competition; or

(5) high technology procurements.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Puente offered the following amendment to **CSSB 1444**:

Amend **CSHB 3299** (Committee Printing) as follows:

(1) On page 11, strike lines 20 and 21 and substitute the following:

SECTION 1. Section 49.273, Water Code, is amended by amending Subsections (i) and (j) and by adding Subsection (k) to read as follows:

(2) On page 12, between lines 12 and 13, insert the following:

(k) The board is not required to advertise or seek competitive bids for a contract for services or property for which there is only one source, as determined by the district's engineer or technical advisor.

SECTION 2. Section 49.278, Water Code, is amended to read as follows:

Sec. 49.278. NONAPPLICABILITY. (a) In this section, "high technology procurement" has the meaning assigned by Section 252.001, Local Government Code, and also includes supervisory control and data acquisition systems.

(b) This subchapter does not apply to:

(1) equipment, materials, or machinery purchased by the district at an auction that is open to the public;

(2) contracts for personal or professional services or for a utility service operator;

(3) contracts made by a district engaged in the distribution and sale of electric energy to the public; or

(4) high technology procurements.

(c) [(b)] Sections 252.021(a) and 252.042, Local Government Code, apply to high technology procurements.

(3) Renumber the SECTIONS of the bill appropriately.

Amendment No. 2 was withdrawn.

Amendment No. 3

Representative Puente offered the following amendment to **CSSB 1444**:

Amend **CSSB 1444** by adding the following appropriately numbered SECTION to the bill to read as follows and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter Z, Chapter 402, Local Government Code, is amended by adding Section 402.908 to read as follows:

Sec. 402.908. PROHIBITED EMPLOYMENT OF OR CONTRACTING WITH FORMER TRUSTEE OR BOARD MEMBER. (a) This section applies to a municipality that creates a board of trustees or other board to manage and control a water, wastewater, storm water, or drainage utility system that the municipality owns.

(b) The municipality or a board of trustees or other board described by Subsection (a) may not employ or contract with an individual who was a member of the board before the second anniversary of the date the individual ceased to be a member of the board.

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative R. Lewis offered the following amendment to **CSSB 1444**:

Amend **SB 1444** as follows:

1. Add a new SECTION __ to read as follows:

SECTION __. Subchapter I, Chapter 49, Water Code, is amended by adding Section 49.280 to read as follows:

Section. 49.280. COMPLIANCE WITH MUNICIPAL REQUIREMENTS. A district construction project must comply with any applicable municipal platting, environmental, or zoning requirements within the municipality's corporate limits and with applicable requirements of a consent agreement or other agreement between the district and the municipality within the municipality's extraterritorial jurisdiction. A district construction project is not otherwise subject to any requirements of a municipality if the project is located outside the municipality's corporate limits. This section does not apply to a municipality with a population of 1.9 million or more, or to the extraterritorial jurisdiction of such a municipality.

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative R. Lewis offered the following amendment to **CSSB 1444**:

Amend **CSSB 1444** as follows:

1. On page 24, after line 23, add a new SECTION 36 to read as follows:

SECTION 36. Notwithstanding Section 26.028(c), Water Code, a public hearing on an application by a district for a commission permit under Section 26.027, Water Code, for effluent composed of disinfected sewage or municipal waste proposing secondary or greater treatment and no discharge of pollutants into any water in the state shall be in the same manner as provided by Section 382.0561, Health and Safety Code.

2. Renumber the subsequent SECTIONS appropriately.

Amendment No. 5 was adopted without objection.

CSSB 1444, as amended, was passed to third reading.

SB 393 ON SECOND READING
(Brimer - House Sponsor)

SB 393, A bill to be entitled An Act relating to the Uniform Electronic Transactions Act and electronic records.

SB 393 was read second time on May 10 and was postponed until this time.

Representative Brimer moved to postpone consideration of **SB 393** until 10 a.m. Thursday, May 17.

The motion prevailed without objection.

SB 85 ON SECOND READING
(Hinojosa, McClendon, and Farrar - House Sponsors)

SB 85, A bill to be entitled An Act relating to the punishment for a capital offense.

SB 85 was read second time on May 8 and was postponed until this time.

Amendment No. 1

Representative Hinojosa offered the following amendment to **SB 85**:

Amend **SB 85** in SECTION 5, in amended Section 2(e)(1), Article 37.071, Code of Criminal Procedure, (house committee printing, page 4, lines 22 and 23), by striking "or life imprisonment".

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Ellis offered the following amendment to **SB 85**:

Amend **SB 85** by striking SECTION 3 (house committee printing, page 2, lines 11-15), and substituting a new SECTION 3 to read as follows:

SECTION 1. Subsection (a), Section 508.145, Government Code, is amended to read as follows:

(a) An inmate under sentence of death or serving a sentence of life without parole or an inmate whose sentence of death is commuted to imprisonment for life is not eligible for release on parole.

Amendment No. 2 was adopted without objection.

Amendment No. 3

On behalf of Representative Dutton, Representative Hinojosa offered the following amendment to **SB 85**:

Amend **SB 85** by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS accordingly:

SECTION _____. Section 508.145(b), Government Code, is amended to read as follows:

(b) An inmate serving a life sentence for a capital felony is not eligible for release on parole until the actual calendar time the inmate has served, without consideration of good conduct time, equals:

(1) 25 calendar years, but only if the inmate since imprisonment has been classified in the highest good conduct time earning classification available to the inmate; or

(2) 40 calendar years, for an inmate serving a life sentence for a capital felony other than an inmate described by Subdivision (1).

Representative Hinojosa moved to table Amendment No. 3.

The motion to table prevailed.

Amendment No. 4

Representative Hilderbran offered the following amendment to **SB 85**:

Amend **SB 85** as follows:

(1) In SECTION 1, in amended Section 12.31(a), Penal Code, (House Committee Printing, page 1, line 9) by striking "life," and substituting "a term of not less than 40 years or more than 99 years, [life]".

(2) In SECTION 1, in amended Section 12.31(a), Penal Code, (House Committee Printing, page 1, line 12) by striking "life" and substituting "a term of not less than 40 years or more than 99 years [life]".

(3) In SECTION 1, in amended Section 12.31(b), Penal Code, (House Committee Printing, page 1, line 16) by striking "life imprisonment" and substituting "a term of not less than 40 years or more than 99 years [life imprisonment]".

(4) In SECTION 1, in amended Section 12.31(b), Penal Code, (House Committee Printing, page 1, line 20) by striking "life imprisonment" and substituting "a term of not less than 40 years or more than 99 years [life imprisonment]".

(5) In SECTION 1, in amended Section 12.31, Penal Code, (House Committee Printing, page 1, between lines 22 and 23), by inserting the following:

(c) A reference in this code, the Code of Criminal Procedure, or Chapter 508, Government Code, to "life" or "life imprisonment", as distinguished from "life without parole" or "life imprisonment without parole", means in the context of a capital case a sentence of imprisonment of not less than 40 years or more than 99 years in the institutional division.

(6) Add an appropriately numbered SECTION to read as follows and renumber existing SECTIONS accordingly:

SECTION __. Section 12.32(a), Penal Code, is amended to read as follows:

(a) An individual adjudged guilty of a felony of the first degree shall be punished by imprisonment in the institutional division for [~~life or~~] for any term of not more than 99 years or less than 5 years.

Representative Hinojosa moved to table Amendment No. 4.

The motion to table prevailed.

Amendment No. 5

Representative Talton offered the following amendment to **SB 85**:

Amend **CSSB 85** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 12.31, Penal Code, is amended to read as follows:

Sec. 12.31. CAPITAL FELONY. (a) An individual adjudged guilty of a capital felony in a case in which the state seeks the death penalty shall be punished by imprisonment in the institutional division for life without parole or by death. An individual adjudged guilty of a capital felony in a case in which the state does not seek the death penalty shall be punished by imprisonment in the institutional division for life without parole.

(b) In a capital felony trial in which the state seeks the death penalty, prospective jurors shall be informed that a sentence of life imprisonment without parole or death is mandatory on conviction of a capital felony. In a capital felony trial in which the state does not seek the death penalty, prospective jurors shall be informed that the state is not seeking the death penalty and that a sentence of life imprisonment without parole is mandatory on conviction of the capital felony.

SECTION 2. Section 508.046, Government Code, is amended to read as follows:

Sec. 508.046. EXTRAORDINARY VOTE REQUIRED. To release on

parole an inmate who was convicted of ~~[a capital felony or]~~ an offense under Section 21.11(a)(1) or 22.021, Penal Code, or who is required under Section 508.145(c) to serve 35 calendar years before becoming eligible for release on parole, all members of the board must vote on the release on parole of the inmate, and at least two-thirds of the members must vote in favor of the release on parole. A member of the board may not vote on the release unless the member first receives a copy of a written report from the department on the probability that the inmate would commit an offense after being released on parole.

SECTION 3. Section 508.145(a), Government Code, is amended to read as follows:

(a) An inmate under sentence of death or serving a sentence of life imprisonment without parole is not eligible for release on parole.

SECTION 4. Section 1, Article 37.071, Code of Criminal Procedure, is amended to read as follows:

Sec. 1. If a defendant is found guilty in a capital felony case in which the state does not seek the death penalty, the judge shall sentence the defendant to life imprisonment without parole.

SECTION 5. Section 2(e), Article 37.071, Code of Criminal Procedure, is amended to read as follows:

(e)(1) The court shall instruct the jury that if the jury returns an affirmative finding to each issue submitted under Subsection (b) ~~[of this article]~~, it shall answer the following issue:

Whether, taking into consideration all of the evidence, including the circumstances of the offense, the defendant's character and background, and the personal moral culpability of the defendant, there is a sufficient mitigating circumstance or circumstances to warrant that a sentence of life imprisonment without parole rather than a death sentence be imposed.

(2) The court shall instruct the jury that if the jury returns a negative finding on an issue submitted under Subsection (b), is unable to answer an issue submitted under Subsection (b), or returns an affirmative finding on the issue submitted under Subdivision (1), the court will sentence the defendant to life imprisonment without parole. The court shall further charge the jury that a defendant sentenced to life imprisonment without parole under this article is ineligible for release from the department on parole or mandatory supervision. ~~[The court, on the written request of the attorney representing the defendant, shall:~~

~~[(A) instruct the jury that if the jury answers that a circumstance or circumstances warrant that a sentence of life imprisonment rather than a death sentence be imposed, the court will sentence the defendant to imprisonment in the institutional division of the Texas Department of Criminal Justice for life; and~~

~~[(B) charge the jury in writing as follows:~~

~~["Under the law applicable in this case, if the defendant is sentenced to imprisonment in the institutional division of the Texas Department of Criminal Justice for life, the defendant will become eligible for release on parole, but not until the actual time served by the defendant equals 40 years, without consideration of any good conduct time. It cannot accurately be predicted how the parole laws might be applied to this defendant if the~~

~~defendant is sentenced to a term of imprisonment for life because the application of those laws will depend on decisions made by prison and parole authorities, but eligibility for parole does not guarantee that parole will be granted."~~

SECTION 6. Section 2(g), Article 37.071, Code of Criminal Procedure, is amended to read as follows:

(g) If the jury returns an affirmative finding on each issue submitted under Subsection (b) ~~[of this article]~~ and a negative finding on an issue submitted under Subsection (e)(1) ~~[of this article]~~, the court shall sentence the defendant to death. If the jury returns a negative finding on any issue submitted under Subsection (b) ~~[of this article]~~ or an affirmative finding on an issue submitted under Subsection (e)(1) ~~[of this article]~~ or is unable to answer any issue submitted under Subsection (b) or (e) ~~[of this article]~~, the court shall sentence the defendant to imprisonment ~~[confinement]~~ in the institutional division of the Texas Department of Criminal Justice for life without parole.

SECTION 7. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 8. This Act takes effect September 1, 2001.

Representative Hinojosa moved to table Amendment No. 5.

A record vote was requested.

The motion to table was lost by (Record 430): 62 Yeas, 80 Nays, 2 Present, not voting.

Yeas — Alexander; Bailey; Burnam; Capelo; Chavez; Danburg; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Farabee; Farrar; Flores; Gallego; Garcia; Giddings; Glaze; Gray; Gutierrez; Hinojosa; Hochberg; Hodge; Homer; Hopson; Jones, J.; Junell; King, T.; Kitchen; Lewis, G.; Lewis, R.; Longoria; Luna; Martinez Fischer; Maxey; McClendon; McReynolds; Menendez; Moreno, P.; Naishtat; Najera; Noriega; Oliveira; Olivo; Pickett; Puente; Rangel; Reyna, A.; Sadler; Salinas; Solis; Thompson; Turner, S.; Uher; Uresti; Villarreal; Wilson; Wise; Yarbrough; Zbranek.

Nays — Allen; Averitt; Berman; Bonnen; Brimer; Brown, B.; Brown, F.; Callegari; Carter; Chisum; Christian; Clark; Cook; Corte; Counts; Crabb; Craddick; Crownover; Davis, J.; Denny; Driver; Eiland; Elkins; Ellis; George; Geren; Goodman; Green; Grusendorf; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, E.; Keel; Keffer; King, P.; Kolkhorst; Krusee; Kuempel; Madden; Marchant; McCall; Merritt; Miller; Morrison; Mowery; Pitts; Ramsay; Raymond; Reyna, E.; Ritter; Seaman; Shields; Smith; Smithee; Solomons; Swinford; Talton; Telford; Tillery; Truitt; Turner, B.; Walker; West; Williams; Wohlgemuth; Wolens; Woolley.

Present, not voting — Mr. Speaker; Goolsby(C).

Absent, Excused — Delisi; Hilbert; Moreno, J.; Nixon.

Absent — Bosse; Coleman.

Representative Danburg raised a point of order against further consideration of Amendment No. 5 under Rule 11, Section 3 of the House Rules on the grounds that the amendment would change the original purpose of the bill.

The chair sustained the point of order.

The ruling precluded further consideration of the amendment.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 4).

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for the remainder of today to attend a meeting of the conference committee on **SB 1**:

Heflin on motion of R. Lewis.

Junell on motion of R. Lewis.

Coleman on motion of R. Lewis.

Gallego on motion of R. Lewis.

West on motion of R. Lewis.

SB 85 - (consideration continued)

A record vote was requested.

SB 85, as amended, failed to pass to third reading by (Record 431):
65 Yeas, 72 Nays, 2 Present, not voting.

Yeas — Alexander; Bailey; Bosse; Brown, F.; Burnam; Capelo; Chavez; Counts; Danburg; Davis, Y.; Deshotel; Dukes; Dunnam; Edwards; Ehrhardt; Farabee; Farrar; Flores; Garcia; Giddings; Gray; Green; Gutierrez; Hawley; Hinojosa; Hochberg; Hodge; Homer; Jones, J.; King, P.; King, T.; Kitchen; Lewis, G.; Lewis, R.; Longoria; Luna; Martinez Fischer; Maxey; McClendon; Menendez; Moreno, P.; Morrison; Naishtat; Najera; Noriega; Olivo; Pickett; Puente; Rangel; Raymond; Reyna, A.; Sadler; Salinas; Shields; Solis; Thompson; Truitt; Turner, S.; Uher; Uresti; Villarreal; Williams; Wilson; Wise; Wohlgemuth.

Nays — Allen; Averitt; Berman; Bonnen; Brimer; Brown, B.; Callegari; Carter; Chisum; Christian; Clark; Cook; Corte; Crabb; Craddick; Crownover; Davis, J.; Denny; Driver; Dutton; Eiland; Elkins; Ellis; George; Geren; Glaze; Goodman; Grusendorf; Haggerty; Hamric; Hardcastle; Hartnett; Hilderbran; Hill; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, E.; Keel; Keffer; Kolkhorst; Krusee; Kuempel; Madden; Marchant; McCall; McReynolds; Merritt; Miller; Mowery; Pitts; Ramsay; Reyna, E.; Ritter;

Seaman; Smith; Smithee; Solomons; Swinford; Talton; Telford; Tillery; Turner, B.; Walker; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Goolsby(C).

Absent, Excused — Delisi; Hilbert; Moreno, J.; Nixon.

Absent, Excused, Committee Meeting — Coleman; Gallego; Heflin; Junell; West.

Absent — Jones, D.; Oliveira.

REASON FOR VOTE

SB 85 would have created a heretofore unknown class of prisoner in Texas—heinous murderers who would have no incentive to behave. This scheme would present an unprecedented danger to corrections officers, nurses, teachers, ministers, and any other prison personnel who deliver services to inmates.

It is incorrect to assert, as some do, that the awarding and taking away of prison privileges would be an effective tool to manage capital murderers. Were that the case, it would not be necessary to segregate, as we do now, those on death row. The fact is, the only truly effective incentive that guides an inmate is the jeopardy misbehavior places for that inmate's prospects for future release. It is also likely that life without parole would result in future occasions of escape, executive clemency, or murders of other inmates within the prison walls.

There is currently an average of approximately twelve years from the time a capital murder defendant is sentenced before he is put to death. We have in just recent months seen examples of death row prisoners escaping and attacking staff. One minister recently had his arm pulled into a cell and was seriously slashed by the prisoner. If **SB 85** were to pass, we would be dealing with capital murder prisoners who would not be able to be further punished by any threats of more imprisonment.

Keel

HR 1063 - ADOPTED (by Morrison)

Representative Morrison moved to suspend all necessary rules to take up and consider at this time **HR 1063**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1063, Recognizing Cuero, Texas, as a starting point of the Chisholm Trail and as the birthplace of numerous Texas cattle drives.

HR 1063 was adopted without objection.

RULES SUSPENDED

Representative Hunter moved to suspend the 5-day posting rule to allow the Committee on State, Federal, and International Relations to consider **SCR 2** at 9 a.m. tomorrow in room E1.014.

The motion prevailed without objection.

Representative Solomons moved to suspend the 5-day posting rule to allow the Committee on Financial Institutions to consider **SB 1581** in a public hearing at 9 a.m. on Wednesday, May 16 in E2.016.

The motion prevailed without objection.

Representative Naishtat moved to suspend the 5-day posting rule to allow the Committee on Human Services to consider **SB 1839**.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

State, Federal, and International Relations, 9 a.m. tomorrow, E1.014, to consider **SCR 2**.

Financial Institutions, 9 a.m. Wednesday, May 16, E2.016, for a public hearing, to consider **SB 1581**.

Public Safety, upon adjournment today, Desk 141, for a formal meeting, to consider **SB 483**, **SB 786**, **SB 1020**, **SB 1312**, and **SB 1713**.

Juvenile Justice and Family Issues, upon adjournment today, Desk 45, for a formal meeting, to consider **SB 70**, **SB 618**, **SB 619**, **SB 1270**, and **SB 1271**.

Public Health, upon adjournment today, Desk 6, for a formal meeting, to consider **SB 581**, **SB 1156**, and pending business.

Environmental Regulation, upon adjournment today, Desk 98, for a formal meeting, to consider **SB 5**.

Calendars, upon adjournment today, speakers committee room.

ADJOURNMENT

Representative A. Reyna moved that the house adjourn until 10 a.m. tomorrow.

The motion prevailed without objection.

The house accordingly, at 6:18 p.m., adjourned until 10 a.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HCR 281 (By George), Requesting the lieutenant governor and speaker to create a joint interim committee to study the formulas used to allocate funds to institutions of higher education.

To House Administration.

HR 1005 (By Chavez), Urging the Texas Higher Education Coordinating Board to establish a law school at The University of Texas at El Paso.
To Higher Education.

HR 1013 (By Kuempel), Honoring Rosita Ornelas of Guadalupe County for being inducted into the Tejano Music Hall of Fame.
To Rules & Resolutions.

HR 1014 (By Smith), Honoring Jeff Corbet for his service on the Bedford City Council.
To Rules & Resolutions.

HR 1016 (By Gutierrez), Congratulating Ruben and Camille Longoria of Cedar Park on the birth of their son.
To Rules & Resolutions.

HR 1017 (By Gutierrez), In memory of Ruben Dario Longoria of Edinburg.
To Rules & Resolutions.

HR 1018 (By Green), Honoring Carolyn Jean Taplin of Richmond on the occasion of her 50th birthday.
To Rules & Resolutions.

HR 1019 (By Green), Congratulating Melissa C. Ruud on her election as Associated Student Government president at Southwest Texas State University.
To Rules & Resolutions.

HR 1020 (By Salinas), Honoring Noel A. Guerra for his tenure with Jim Hogg County ISD.
To Rules & Resolutions.

HR 1021 (By Hunter), In memory of Curtis Dale Tunnell of Austin.
To Rules & Resolutions.

HR 1022 (By Noriega and J. Moreno), Congratulating Milby High School of Houston on its 75th anniversary.
To Rules & Resolutions.

HR 1024 (By P. Moreno), Recognizing Paul C. Moreno Elementary School in El Paso.
To Rules & Resolutions.

HR 1028 (By Counts), Honoring the 50th wedding anniversary of Mr. and Mrs. W. T. Grussendorf of Anson.
To Rules & Resolutions.

HR 1029 (By Dunnam), Honoring the Central Texas Chapters of Zeta Phi Beta Sorority on its 72nd Southern Regional Conference.
To Rules & Resolutions.

HR 1030 (By Keel), Honoring Eagle Scout Matthew Chen Fletcher of Austin.
To Rules & Resolutions.

HR 1031 (By Keel), Honoring Samuel Henry Livingston of Austin for attaining the rank of Eagle Scout.

To Rules & Resolutions.

HR 1033 (By Krusee), Honoring Taylor, Texas on the occasion of its 125th anniversary.

To Rules & Resolutions.

HR 1034 (By Krusee), Congratulating Dr. Glenn Arthur Lee of Taylor on his 80th birthday.

To Rules & Resolutions.

HR 1035 (By Krusee), Honoring Native Texan Mildred Barnes Jernigan on the occasion of her 90th birthday.

To Rules & Resolutions.

HR 1036 (By Krusee), Congratulating Kurt and Victoria Frieling of Plano on the birth of their son.

To Rules & Resolutions.

HR 1037 (By Goolsby), Honoring the 50th anniversary of the Thompson, Coe, Cousins & Irons, L.L.P. law firm.

To Rules & Resolutions.

HR 1038 (By Uher), In memory of Lois Martin Hansen Hayes of Bay City.

To Rules & Resolutions.

HR 1039 (By Chisum and Uher), In memory of the Honorable Grainger Walter McIlhany.

To Rules & Resolutions.

HR 1041 (By Hill), Congratulating Lee Fitzgerald on his selection as president of the Dallas County Dental Society.

To Rules & Resolutions.

HR 1042 (By Chavez), In memory of Lilia Natalia De-Cory Arrambide of El Paso.

To Rules & Resolutions.

HR 1043 (By Chavez), Honoring the 2001 Junior ROTC battalion at Parkland High School for earning the Superintendent's Trophy.

To Rules & Resolutions.

HR 1044 (By Salinas), Honoring the academic teams from La Vernia High School for their exemplary performances at the 2001 UIL Small School Academic Contest Championship.

To Rules & Resolutions.

HR 1045 (By Hunter), Honoring George Fletcher Cauthen of Houston for his myriad accomplishments.

To Rules & Resolutions.

HR 1047 (By Truitt), In memory of Corrections Officer Wilmot A. Burnett of the Texas Department of Criminal Justice.

To Rules & Resolutions.

HR 1048 (By Truitt), In memory of Corrections Officer Francisco F. Garza of the Texas Department of Criminal Justice.

To Rules & Resolutions.

SB 334 to Public Education.

SB 438 to Land & Resource Management.

SB 557 to Urban Affairs.

SB 927 to Public Education.

SB 1066 to State Affairs.

SB 1366 to State Affairs.

SB 1417 to Judicial Affairs.

SB 1453 to Criminal Jurisprudence.

SB 1525 to Public Education.

SB 1619 to Natural Resources.

SB 1620 to Natural Resources.

SB 1649 to Appropriations.

SB 1650 to Appropriations.

SB 1655 to Natural Resources.

SB 1787 to Judicial Affairs.

SB 1808 to Judicial Affairs.

SB 1816 to Ways & Means.

SB 1823 to County Affairs.

SB 1824 to County Affairs.

SB 1834 to Business & Industry.

SB 1839 to Human Services.

SCR 45 to Insurance.

SCR 57 to Rules & Resolutions.

SCR 59 to Rules & Resolutions.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 52

HB 100, HB 108, HB 234, HB 251, HB 337, HB 394, HB 521, HB 561, HB 591, HB 593, HB 594, HB 702, HB 935, HB 995, HB 996, HB 1081, HB 1136, HB 1162, HB 1233, HB 1266, HB 1274, HB 1390, HB 1402, HB 1452, HB 1465, HB 1504, HB 1532, HB 1588, HB 1600, HB 1640, HB 1663, HB 1671, HB 1799, HB 1876, HB 1888, HB 1901,

HB 2299, HB 2354, HB 2401, HB 2584, HB 2610, HB 2621, HB 3567
Senate List No. 27

SB 1096, SB 1140, SB 1175, SCR 55

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Monday, May 14, 2001

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 79 (viva-voce vote)

Respectfully,

Betty King
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Monday, May 14, 2001 - 2

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HCR 50 Chisum SPONSOR: Brown, J. E. "Buster"
In memory of Robert O'Connor.

HCR 111 Chisum SPONSOR: Brown, J. E. "Buster"
In memory of Victor T. Newman of Waco.

HCR 112 Chisum SPONSOR: Brown, J. E. "Buster"
In memory of Lieutenant Colonel George R. "Bob" Scott of Waco.

HCR 113 Chisum SPONSOR: Brown, J. E. "Buster"
In memory of Robert L. Dillard, Jr., of Dallas.

HCR 268 Farabee SPONSOR: Moncrief
Designating May 2001 as Mental Health Month in Texas.

HCR 280 Villarreal, Mike SPONSOR: Wentworth
In memory of the Honorable Carlos Cristian Cadena of San Antonio.

THE SENATE HAS CONCURRED IN HOUSE AMENDMENTS TO THE
FOLLOWING MEASURES:

SB 38 (viva-voce vote)
SB 141 (viva-voce vote)
SB 203 (viva-voce vote)
SB 243 (viva-voce vote)
SB 324 (30 Yeas, 0 Nays, 1 Present Not Voting)
SB 387 (30 Yeas, 0 Nays, 1 Present Not Voting)
SB 424 (30 Yeas, 0 Nays, 1 Present Not Voting)
SB 532 (viva-voce vote)
SB 561 (viva-voce vote)
SB 664 (viva-voce vote)
SB 694 (30 Yeas, 0 Nays, 1 Present Not Voting)
SB 834 (viva-voce vote)
SB 916 (viva-voce vote)
SB 1158 (30 Yeas, 0 Nays, 1 Present Not Voting)
SB 1194 (viva-voce vote)

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE
COMMITTEE REPORTS:

SB 187 (30 Ayes, 0 Nays, 1 Present Not Voting)

Respectfully,

Betty King
Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Monday, May 14, 2001 - 3

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SCR 62 Sibley

In memory of William “Bill” Kloster of Dublin.

Respectfully,

Betty King

Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Monday, May 14, 2001 - 4

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 269 Berman SPONSOR: Staples

Relating to the sale of alcohol in dry areas; providing criminal penalties.
(AMENDED)

HB 1467 Maxey SPONSOR: Barrientos

Relating to the amount of tuition that a public junior college may set aside for Texas Public Education Grants.

HB 1475 Kitchen SPONSOR: Ellis, Rodney

Relating to master technology teacher certification, grants, and stipends.
(COMMITTEE SUBSTITUTE)

HB 1686 Kolkhorst SPONSOR: Ogden

Relating to reporting of animal diseases by veterinarians.
(AMENDED)

HB 3064 Junell SPONSOR: Ellis, Rodney

Relating to the issuance of general obligation bonds by the Texas Public Finance Authority for certain construction and repair projects and equipment purchases.
(COMMITTEE SUBSTITUTE)

HJR 45 Tillery SPONSOR: Shapiro

Proposing a constitutional amendment to require the governor to call a special session for the appointment of presidential electors under certain circumstances.

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 3343

Senate Conferees: Bivins - Chair/Ellis, Rodney/Staples/Van de Putte/Zaffirini

Respectfully,

Betty King

Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 11

Appropriations - **SB 736, SB 1060, SB 1091**

Business & Industry - **SB 560**

Civil Practices - **SB 731**

Corrections - **SB 840**

Criminal Jurisprudence - **SB 814, SB 1120**

Economic Development - **SB 1656**

Environmental Regulation - **HCR 213, SB 1146, SCR 22, SCR 23**

Financial Institutions - **SB 1173, SB 1485, SB 1759, SB 1798**

Insurance - **SB 440, SB 544, SB 990, SB 992, SB 1571, SB 1598, SB 1653, SB 1793**

Land & Resource Management - **SB 1002**

Licensing & Administrative Procedures - **SB 1622, SB 1684**

Natural Resources - **SB 1771**

Pensions & Investments - **SB 292, SB 734**

Public Education - **SB 467**

Public Health - **SB 531, SB 877, SB 1006, SB 1085, SB 1246, SB 1373, SB 1588**

Public Safety - **SB 819**

State Affairs - **SB 200, SB 1016, SB 1268, SB 1659**

State Recreational Resources - **HCR 262**

Ways & Means - **SB 1689, SB 1690**

ENGROSSED

May 11 - HB 115, HB 125, HB 126, HB 141, HB 152, HB 182, HB 218, HB 267, HB 284, HB 299, HB 319, HB 331, HB 336, HB 350, HB 385, HB 447, HB 460, HB 484, HB 492, HB 511, HB 512, HB 522, HB 546, HB 558, HB 596, HB 599, HB 644, HB 653, HB 694, HB 704, HB 726, HB 729, HB 788, HB 792, HB 798, HB 801, HB 803, HB 824, HB 829, HB 838, HB 887, HB 900, HB 910, HB 920, HB 927, HB 949, HB 955, HB 956, HB 1014, HB 1026, HB 1034, HB 1050, HB 1109, HB 1119, HB 1121, HB 1124, HB 1125, HB 1138, HB 1154, HB 1167, HB 1181, HB 1203, HB 1213, HB 1218, HB 1267, HB 1268, HB 1276, HB 1296, HB 1330, HB 1340, HB 1377, HB 1380, HB 1382, HB 1404, HB 1418, HB 1433, HB 1438, HB 1440, HB 1464, HB 1468, HB 1492, HB 1499, HB 1505, HB 1575, HB 1594, HB 1606, HB 1609, HB 1709, HB 1715, HB 1748, HB 1752, HB 1764, HB 1765, HB 1766, HB 1793, HB 1820, HB 1823, HB 1848, HB 1853, HB 1860, HB 1883, HB 1892, HB 1915, HB 1921, HB 1928, HB 1949, HB 1959, HB 1968, HB 1978, HB 2008, HB 2017, HB 2019, HB 2036, HB 2042, HB 2048, HB 2076, HB 2105, HB 2106, HB 2108, HB 2118, HB 2125, HB 2138, HB 2154, HB 2155, HB 2164, HB 2186, HB 2191, HB 2205, HB 2215, HB 2226, HB 2271, HB 2276, HB 2288, HB 2383, HB 2388, HB 2407, HB 2410, HB 2435, HB 2445, HB 2452, HB 2453, HB 2536, HB 2544, HB 2582, HB 2673, HB 2676, HB 2682, HB 2687, HB 2706, HB 2723, HB 2740, HB 2744, HB 2775, HB 2786, HB 2799, HB 2803, HB 2806, HB 2808, HB 2838, HB 2878, HB 2903, HB 2926, HB 2951, HB 2962, HB 2970, HB 3001, HB 3027, HB 3036, HB 3049, HB 3066, HB 3081, HB 3140, HB 3152, HB 3154, HB 3182, HB 3205, HB 3210, HB 3235, HB 3242, HB 3244, HB 3284, HB 3300, HB 3305, HB 3324, HB 3325, HB 3348, HB 3349, HB 3440, HB 3444, HB 3455, HB 3469, HB 3498, HB 3505, HB 3506, HB 3530, HB 3578, HB 3667, HB 3685, HB 3698

ENROLLED

May 11 - HB 108, HB 186, HB 234, HB 251, HB 362, HB 394, HB 483, HB 521, HB 587, HB 935, HB 1162, HB 1233, HB 1274, HB 1390, HB 1452, HB 1465, HB 1504, HB 1532, HB 1588, HB 1600, HB 1663, HB 1799, HB 1876, HB 1888, HB 1901, HB 1924, HB 2299, HB 2401, HB 2584, HB 2610, HB 2621, HB 3318, HB 3415, HB 3556, HB 3567

SENT TO THE GOVERNOR

May 11 - HB 186, HB 362, HB 483, HB 587, HB 1376, HB 1924, HB 3318, HB 3415, HB 3556

SIGNED BY THE GOVERNOR

May 11 - HB 120, HB 271, HB 477, HB 587, HB 753, HB 1569, HB 1573, HB 1754, HCR 252, HCR 259, HCR 261

